

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

GARY CASSANO,

Plaintiff,

No. C 12-05144 WHA

v.

M. JOHNSON,

Defendant.

**ORDER RE DEFENDANT'S  
ADMINISTRATIVE MOTION TO  
CLARIFY CLAIMS**

Defendant M. Johnson has filed an administrative motion requesting clarification as to the causes of action upon which plaintiff is entitled to proceed, in order to properly address whether to file a dispositive motion. Defendant asserts that it is unclear whether the complaint alleged sufficient facts to pursue a claim for deliberate indifference to safety. It has already been held that the complaint's allegations "are sufficient to state a cognizable claim against *defendants* for using excessive force and being deliberately indifferent to [plaintiff's] safety" (Dkt. No. 6 at 2)(emphasis added). Moreover, defendant has already answered the complaint (Dkt. No. 65). He could have filed a motion to dismiss the complaint at that time if he thought it failed to state a claim. The parties are now in the midst of discovery. If defendant wishes to submit a motion for summary judgment, he is free to do so.

**IT IS SO ORDERED.**

Dated: March 9, 2015.

  
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WILLIAM ALSUP  
UNITED STATES DISTRICT JUDGE